

## CHAPTER 14 - DISCIPLINARY ACTION

### GENERAL

Discipline is the management skill whereby the manager teaches the employee the nature of followership necessary to fulfill his/her duties and accomplish the mission of the Agency. An adverse action is any action, which may have a negative impact on the employee's career and/or compensation. Examples are reprimands, suspension, demotion, and dismissal. Temporary, Non-covered and Original Probation employees are not granted the protections in this section.

### RESPONSIBILITIES

Immediate Supervisor - First Line responsibility for the employee; identify problem/discipline areas; recommend corrective actions to include adverse actions; initiate any action regarding employee status, to include adverse actions.

Intermediate Supervisors - Provide assistance, train, assist supervisor in making decisions.

Major Commander/Director - Development, dissemination and compliance with policy; determination of action to be taken after receiving appropriate staff advice, with TAG approval where required.

Administrative Services Officer (ASO) - Provide technical advice; prepare policy; provide coordination with any outside body; maintain records of actions taken.

### ADMINISTRATION

#### 14.3.1 Reprimands

All official reprimands should be coordinated with the Administrative Services Officer for technical correctness, propriety and consistency prior to finalizing any action. Any documents intended for inclusion in the individual's personnel file must so state. Such documents are maintained in the Administrative Services Office and constitute the only official documentation of such action. Coordination is to be prior to the action whenever possible.

#### 14.3.2 Actions Affecting Pay

All actions affecting pay (demotion, suspension or termination) will follow the procedure below:

1. The supervisor will discuss the problem and recommendations with the Administrative Services Officer to review file and applicable rules.
2. If conditions appear to merit an adverse action, a written memorandum of the proposed action and the reasons for the action are sent to the Administrative Services Officer, Attn: DEMA/JP-P. Emphasis at this step is that this is a proposal and the employee has not yet been advised.
3. The Administrative Services Officer will inquire into the merits of the proposal. This process may include the JAG, ADOA Human Resources, and the Attorney General's Office and may include an investigation or informal hearing (as necessary).
4. Action is taken based on results of the inquiry. Only TAG or the four Department Directors (in the absence of TAG) can approve and sign an adverse action affecting pay.

#### 14.3.3 Demotion, Suspension or Termination of Covered Employees

The steps outlined in 14.3.2 will be taken, followed by these:

1. The employee will be given written notice of the intent to dismiss, demote or suspend and each of the allegations.
2. This notice will include the following:
  - a. All specific charges against the employee and a general description of the evidence supporting the charges.
  - b. A statement which:

Advises the employee of his/her right to respond to the allegations.

- Requests a written response.

Lists the name of the person who should receive the response. The supervisor who initiated the dismissal action should normally receive the response.

- Specifies the time limits in which to respond. Three working days from the date the notice is delivered to the employee should be sufficient time for a response. The response time may be extended, provided the extension is due to unusual circumstances and is mutually agreeable to agency management and the employee.
3. Failure of the employee to respond in the designated time period will result in the employee forfeiting the right to submit a response. In preparing the written response, the employee has a right to representation at his/her own expense. Present policies and practices regarding representatives who are state employees remain in effect.
  4. An investigation may be conducted if the employee's response indicates such an investigation is warranted.
  5. Once the pre-dismissal/demotion or suspension process is completed, all of the supporting documentation, including any audio tape recordings, must be retained by the agency Administrative Services Office in accordance with ADOA Record Retention requirements.

#### **14.4 "WHISTLEBLOWER PROTECTION"**

In an effort to protect employees who disclose improprieties to proper authorities from retaliation, statutes require that supervisors provide a copy of A.R.S. 38-532 to an employee upon request. Care must be taken to insure that any disciplinary or corrective correspondence complies with these statutory provisions. Again, coordination with the Administrative Services Officer is essential to ensure such compliance. The following actions require compliance with these provisions:

All formal disciplinary letters.

2. Memos of concern, warning, letters, letter of instruction or similar written communications.
3. Letters documenting formal performance counseling sessions.